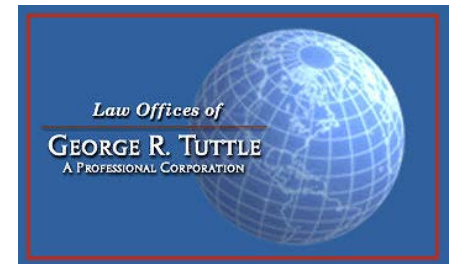


Customs Brokers & Freight Forwarders Association of Northern California December Education Event

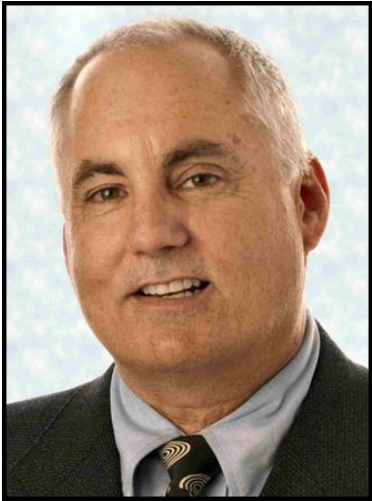
HARMONIZED TARIFF CLASSIFICATION – WHAT YOU NEED TO KNOW!

DECEMBER 14, 2016

George Tuttle, III, Attorney
Law Offices of George R. Tuttle
geo@tuttlelaw.com
Phone (415) 288-0428



About your Speaker



George Tuttle, III is an attorney with the law firm of George R Tuttle Law Offices in San Francisco. He has been in practice for over 30 years. George's practice emphasis is on Customs, international trade regulation, and export compliance. He works with both small and large importers, as well as customs brokers and freight forwarders on import and export related matters.

He assists companies with compliance audits and to develop effective compliance programs; determine correct customs duties, values, product classifications, and duty preference eligibility; obtain rulings, file protests; and resolve penalty, seizure and enforcement cases.

Recently, was editor and a principal author for Chapter 9 "Focused Assessments" – for the American Bar Association's publication U.S. Customs Law: A Practitioner's Guide.

He has also contributed materials for the ABA's annual publication Customs Law Committee Year in Review for 2013 and 2014, 2015 and most recent 2016.

He and the firm litigate matters before the United States Court of International Trade (CIT) and the Court of Appeals for the Federal Circuit (CAFC) in Washington D.C., on customs matters such as classification and valuation.

Additional information about Mr. Tuttle can be found at www.tuttlelaw.com.

Program Agenda



➤ Seminar Topics:

- Background, structure and history of the Harmonized Tariff Schedules and its relationship to the World Customs Organization and the Harmonized Commodity Description and Coding System.
- Understanding and applying the General Rules of Interpretation (GRIs)
- “Common meaning” and its application to tariff provisions
- The Rule of Relative Specificity; Eo Nomine vs. Use Provisions
- Understanding “Principle Use” and the Carborundum Factors
- Essential character vs. principal function
- Helpful hints for Protests and Ruling Requests on Tariff Classification
- Tariff Classification for Exports

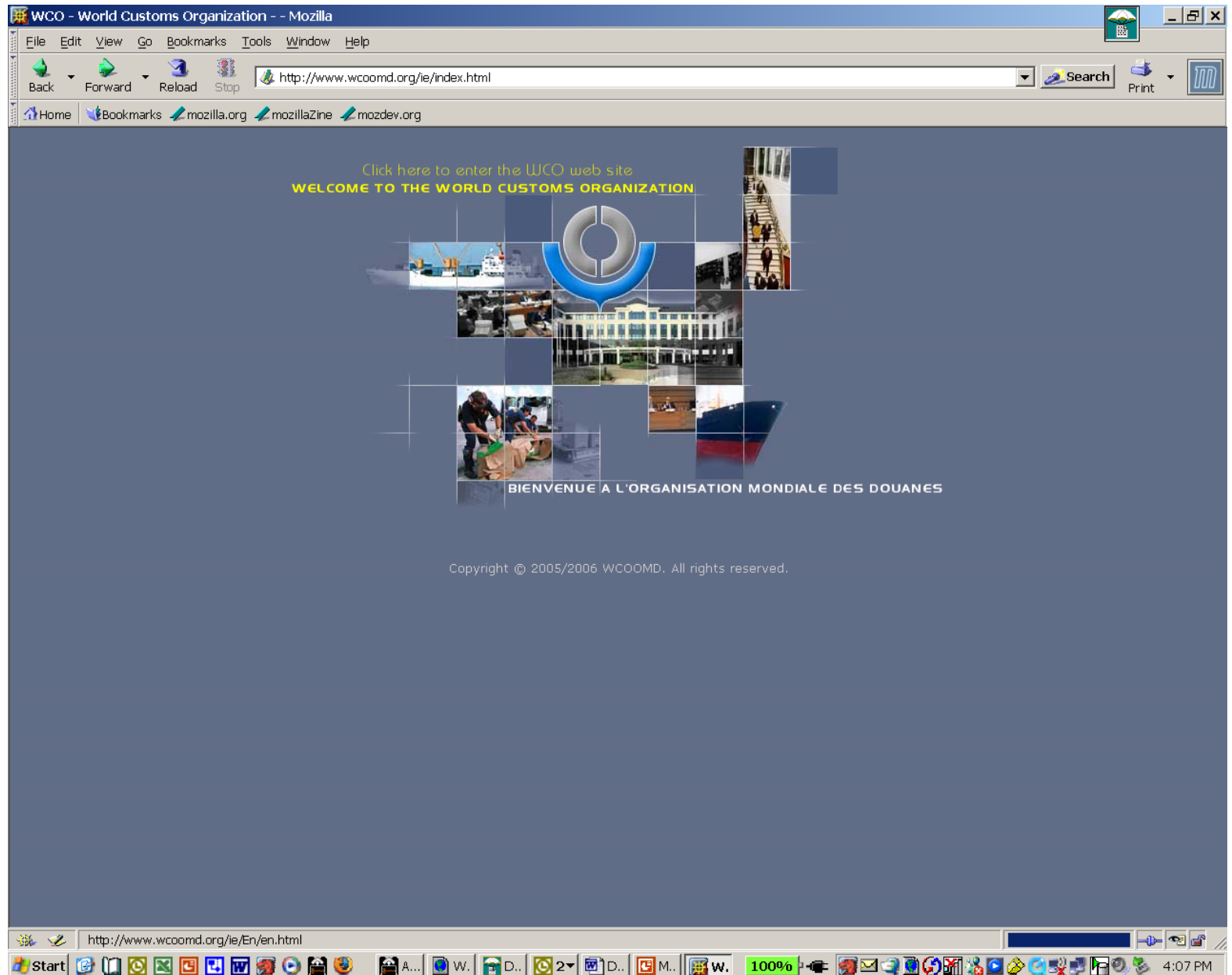
The HTSUS: Where it comes from

The HTSUS was originally adopted and ratified by Congress in 1989.

It is based on the World Customs Organization's (WCO) Harmonized Classification and Coding System.

You can visit the WCO by going to:

<http://www.wcoomd.org>



The HTSUS: Where it comes from

The screenshot displays the official website of the World Customs Organization (WCO). The header includes the WCO logo, the organization's name in English and French, a language dropdown menu set to 'English', and links to 'World Customs Organization', 'Contact Us', 'Sitemap', 'FAQ', and 'RSS feeds'. A search bar is located on the right. The main navigation bar features links for 'ABOUT US', 'MEDIA', 'ONLINE SERVICES', 'TOPICS', 'EVENTS', and a 'SIGN IN' button. The 'ABOUT US' section is expanded, showing a breadcrumb trail: 'You are here: World Customs Organization > About Us > WCO Members > Membership'. The left sidebar contains a list of links: 'WCO IN BRIEF', 'WCO MEMBERS' (with a dropdown arrow), 'Membership' (highlighted), 'National Customs Websites', 'Regional Websites', 'WCO WORKING BODIES', 'WCO SECRETARIAT', 'LEGAL INSTRUMENTS', 'WCO PARTNERS', 'INTERNATIONAL CUSTOMS DAY', 'ANNUAL COMPETITIONS', 'VACANCIES', 'CALLS FOR TENDERS', and 'LINKS'. The main content area is titled 'Membership' and includes a 'More information' button. Below the title, a text box states: 'WCO 180 Members, three-quarters of which are developing countries, are responsible for managing more than 98% of world trade. They are divided into 6 regions.' A world map is shown, color-coded by region. A legend at the bottom identifies the regions: South America, North America, Central America and the Caribbean (orange); Europe (red); Far East, South and South East Asia, Australia and the Pacific Islands (green); North of Africa, Near and Middle East (blue); West and Central Africa (pink); and East and Southern Africa (dark orange).

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You are here: World Customs Organization > About Us > WCO Members > Membership

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Membership

More information

WCO 180 Members, three-quarters of which are developing countries, are responsible for managing more than 98% of world trade. They are divided into 6 regions.

South America, North America, Central America and the Caribbean

Europe

Far East, South and South East Asia, Australia and the Pacific Islands

North of Africa, Near and Middle East

West and Central Africa

East and Southern Africa

WCO Topics Page

The screenshot shows the WCO Topics page at www.wcoomd.org/en/topics.aspx. The page features a blue header with the WCO logo, the text 'World Customs Organization / Organisation Mondiale des Douanes', a language dropdown set to 'English', and navigation links for 'World Customs Organization', 'Contact Us', 'Sitemap', 'FAQ', and 'RSS feeds'. A search bar is located on the right. Below the header is a blue navigation bar with tabs for 'ABOUT US', 'MEDIA', 'ONLINE SERVICES', 'TOPICS', and 'EVENTS'. The 'TOPICS' tab is selected, and a mouse cursor is pointing at it. The main content area is a grid of topic categories, each with a list of sub-items. The 'NOMENCLATURE AND CLASSIFICATION OF GOODS' category is highlighted with a red circle. Other categories include 'VALUATION', 'ORIGIN', 'ENFORCEMENT AND COMPLIANCE', 'PROCEDURES AND FACILITATION', 'CAPACITY BUILDING', 'INTEGRITY', 'RESEARCH', 'KEY ISSUES', and 'WCO IMPLEMENTING THE WTO TFA'.

ABOUT US	MEDIA	ONLINE SERVICES	TOPICS	EVENTS
NOMENCLATURE AND CLASSIFICATION OF GOODS <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResources	VALUATION <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResourcesPartners	ORIGIN <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResourcesPartners	ENFORCEMENT AND COMPLIANCE <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResourcesPartners	PROCEDURES AND FACILITATION <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResourcesPartners
CAPACITY BUILDING <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResourcesPartners	INTEGRITY <ul style="list-style-type: none">OverviewNewsActivities and ProgrammesInstruments and ToolsResources	RESEARCH <ul style="list-style-type: none">OverviewActivities and ProgrammesInstruments and toolsResearch Unit StaffPicard Conference	KEY ISSUES <ul style="list-style-type: none">Revenue PackageEconomic Competitiveness PackageCompliance & Enforcement PackageOrganizational Development PackageProgramme Global ShieldCustoms Laboratories	WCO IMPLEMENTING THE WTO TFA <ul style="list-style-type: none">Message from Secretary GeneralWTO Agreement on Trade FacilitationMercator ProgrammeRegional WorkshopsNational Committees on Trade FacilitationGuía de ImplementaciónImplementation GuidanceAnalysis of Section ICapacity BuildingInformation SheetsWorking DocumentsOther Relevant DocumentsNews



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[Finance Committee](#)

[Tariff and Trade Affairs](#)



[Harmonized System Committee](#)

TARIFF AND TRADE AFFAIRS



Harmonized System Committee

The HS Committee performs functions as described in Article 7 of the HS Convention. To that end, the Committee acts under the overall direction of the WCO Council and Policy Commission, with administrative support provided by the WCO Secretariat.

[read more](#)

Harmonized System Review Sub-Committee

The Review Sub-Committee (RSC) acts under the overall direction of the HS Committee with administrative support provided by the WCO Secretariat.

[read more](#)

WCO SECRETARIAT

[LEGAL INSTRUMENTS](#)

WCO PARTNERS

INTERNATIONAL CUSTOMS DAY

ANNUAL COMPETITIONS

VACANCIES

CALLS FOR TENDERS

LINKS

3. Purpose and Scope

The purpose and scope of the HS Committee is to :

- interpret the HS legal texts in the most appropriate manner to secure uniform classification of goods, including settlement of classification disputes between CPs, thus facilitating trade (uniform interpretation and application);
- amend the HS legal texts to reflect developments in technology and changes in trade patterns as well as other needs of HS users (updating);
- promote widespread application of the HS (promotion);
- examine general questions and policy matters relating to the HS (general and policy matters).

4. Key Deliverables

The HS Committee's key deliverables are to :

uniform interpretation and application

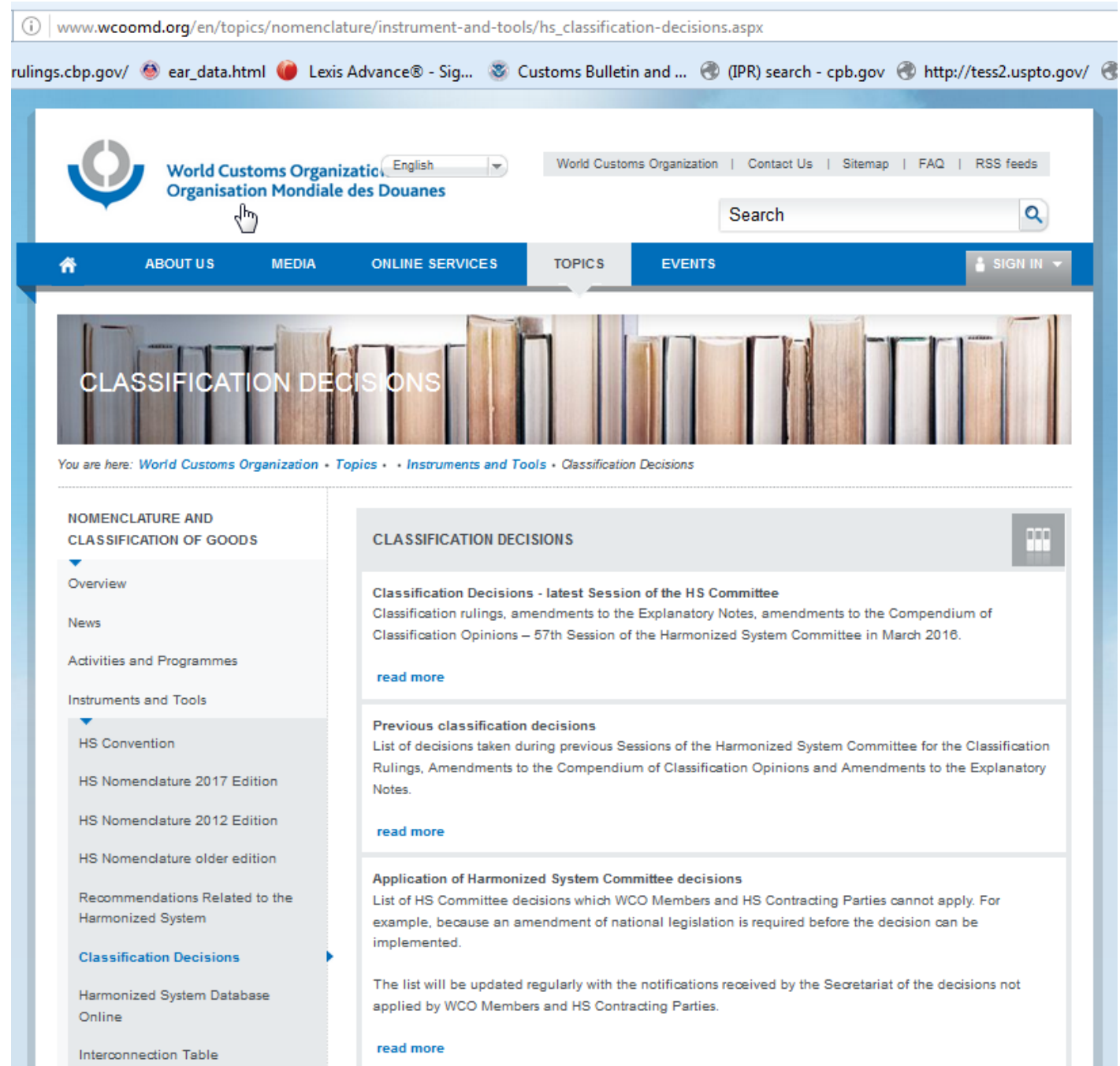
- settle classification questions and disputes;
- revise the HS Explanatory Notes and Classification Opinions;
- secure speedy and uniform implementation of classification decisions;
- draft recommendations to secure uniformity in the interpretation and application of the HS, for example, the Recommendations on Pre-entry Classification Programmes and the Good Classification Work Model;
- support the work of the Secretariat in ensuring uniform application of the HS, such as with regard to the publication of the HS database (On-line and CD-ROM), Correlation Tables between the current edition and the amended edition of the HS, the HS Classification Handbook and the Alphabetical Index.

Updating

- amend legal texts to reflect developments in technology and changes in trade patterns as well as other needs of HS users;
- encourage CPs to implement the amendments in a timely manner.

Recent WCO Classification Decisions

http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs_classification-decisions.aspx



The screenshot shows the official website of the World Customs Organization (WCO) for classification decisions. The page is in English and features a blue header with the WCO logo and navigation links. The main content area is titled 'CLASSIFICATION DECISIONS' and includes a breadcrumb trail: 'You are here: World Customs Organization • Topics • Instruments and Tools • Classification Decisions'. The left sidebar lists various topics under 'NOMENCLATURE AND CLASSIFICATION OF GOODS', with 'Classification Decisions' highlighted. The main content area provides information about the latest session of the HS Committee, previous classification decisions, and the application of harmonized system committee decisions. Each section includes a 'read more' link.

www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs_classification-decisions.aspx

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NOMENCLATURE AND CLASSIFICATION OF GOODS

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 - Recommendations Related to the Harmonized System
 - Classification Decisions**
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CLASSIFICATION DECISIONS

Classification Decisions - latest Session of the HS Committee
Classification rulings, amendments to the Explanatory Notes, amendments to the Compendium of Classification Opinions – 57th Session of the Harmonized System Committee in March 2016.
[read more](#)

Previous classification decisions
List of decisions taken during previous Sessions of the Harmonized System Committee for the Classification Rulings, Amendments to the Compendium of Classification Opinions and Amendments to the Explanatory Notes.
[read more](#)

Application of Harmonized System Committee decisions
List of HS Committee decisions which WCO Members and HS Contracting Parties cannot apply. For example, because an amendment of national legislation is required before the decision can be implemented.
[read more](#)

The list will be updated regularly with the notifications received by the Secretariat of the decisions not applied by WCO Members and HS Contracting Parties.

Recent WCO Classification Decisions

Classification Rulings – HS Committee 57th Session

The following list contains the classification decisions (other than those subject to a reservation) taken by the Harmonized System Committee (57th Session – March 2016) on specific products, together with their related Harmonized System code numbers and, in certain cases, the classification rationale.

Advice

Parties seeking to import or export merchandise covered by a decision are advised to verify the implementation of the decision by the importing or exporting country, as the case may be.

No	Product description	Classification	HS codes considered	Classification rationale
1.	Arachidonic Acid (ARA) Oil, in the form of natural mixed glyceride which goes through fungi fermentation (<i>Motierella Alpina</i>), centrifugation and refining. Composition : 95 – 98 % triglyceride, 2 – 5 % diglyceride and monoglyceride. As to the triglyceride, it is fatty acid mainly including arachidonic acid, palmitic acid, linolenic acid, and other fatty acids etc. The product is a light yellow or orange-yellow liquid at room temperature, and it turns into solid form under 4 °C. It is dissolvable in organic solvent such as hexane or petroleum ether, but not dissolvable in water.	1515.90		
2.	Coconut water obtained from green coconuts (99.95 %) with added sugar of 0.05 % (to control taste between different batches of coconuts). The water is naturally coconut flavoured. The water is bottled in 290 ml glass bottles with 24 bottles packed in a carton.	2009.89	20.09 and 22.02	GIRs 1 and 6.
3.	Rose hip juice concentrate – Brown viscous liquid (Brix value 65) made of 100 % rose hips. The product is used as a raw material for the manufacture of beverages and foodstuffs, and is put up in aseptic bags weighing 250 kg.	2106.90	13.02 and 21.06	GIRs 1 and 6.
4.	Certain INN products. (See "Classification of "dianexin" (INN list 100), "relamarelin" (INN list 110) and	Chapters 29 and 30		

Recent WCO Classification Decisions

Amendments to the Compendium of Classification Opinions – HS Committee 57th Session



Amendments to the Compendium of Classification Opinions – HS Committee 57th Session



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Page XI/6b.

Insert the following Classification Opinion :

- "6109.90** 2. **Women's long-sleeved T-shirt** without a collar, made of light-weight knitted fabric (87 % polyester, 13 % elastane). The bottom edge of the T-shirt and the sleeves are hemmed.

This T-shirt is one component of a woman's set of garments, which also consists of a pair of trousers, which is classified separately in subheading 6104.63. Both garments are presented together, put up for retail sale.

Application of GIRs 1 (Note 14 to Section XI) and 6.

See also Opinion 6104.63/1.

WCO Classification Decisions/ Rulings

The Apple Watch

Classification Rulings – HS Committee 55th Session

The following list contains the classification decisions (other than those subject to a reservation) taken by the Harmonized System Committee (55th Session) together with their related Harmonized System code and classification rationale.


Advice

Parties seeking to import or export merchandise covered by the decision should consult the implementation of the decision by the importing or exporting country.

No	Product description	Classification
1.	Pizza topping made of mozzarella cheese (76 % by weight), sliced into small pieces; pepperoni (22 % by weight); spices (approximately 1 % by weight, comprising dehydrated garlic, onion powder, chilli pepper); canola oil and calcium silicate (approximately 1 % by weight). The spices are mixed to coat the cheese. The coated	The product is classified as a pizza topping. Its composition is "mozzarella cheese", "pepperoni" and "spices".

Classification Rulings – HS Committee 55th Session

No	Product description	Classification	HS codes considered	Classification rationale
	When "paired" with a host device, additional features are available to the wearer, including : making and receiving calls over the paired device; using voice commands to control the paired device (e.g., to send messages, take photos, set an alarm and check a weather forecast or schedules); displaying notifications from the paired device; playing music stored in the host device; performing functions of timekeeping instruments; measuring and displaying certain data, e.g., step counts, heart rates and calorie consumption; downloading (over the paired device) and running applications suitable to be used on the device.			
18.	Wrist wearable device ("smart watch") : a battery-operated device in the form of a band, incorporating a black and white E ink display, an electronic watch module, an accelerometer, an altimeter. A radio transceiver utilizes an open wireless technology standard (Bluetooth®), which enables the device to communicate wirelessly with certain mobile devices, such as mobile telephones for cellular networks. The device performs the following functions independently of any other device : view date and time; alarm; pedometer. When "paired" with a host device, additional features are available to the wearer, including : making/answering phone calls by speaking directly into the device; viewing incoming e-mails and notifications; operating the music player functions on the host device.	8517.62		GIRs 1, 3 (b) and 6.



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HS Dispute Settlement
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HS Dispute Settlement

HS dispute settlement plays an important role in the facilitation of international trade. The Harmonized System (HS), as a multipurpose trade classification, has many different applications. For use for now and the foreseeable future is still the collection of import duties and taxes for revenue purposes (including the protection of domestic industries). This monetary function creates the potential for disputes between duty collection authorities and persons liable for duty.

Under the Harmonized System, commodities must be clearly distinguished from one another. For each commodity or category of commodities, only one heading or subheading should be applied, precluding classification in any other heading or subheading. Generally speaking, once the classification of a good is identified in the nomenclature, the duty rate is automatically determined. There is no room for beginning there was classification."

At national level, classification is designed to carry out specific government policies and it is quite different and therefore international HS dispute settlement is different. Once the classification of a good is identified in the HS Nomenclature, it must be applied uniformly all over the world. Its application, in particular its economic impact, may be different from country to country. The same product may be subject to low duties in one administration and high duties in another. For this reason, as a result of the technical nature of the Harmonized System, disputes in the HS Committee are settled from a classification point of view.

www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs-nomenclature-2017-edition/amendments-effective-from-1-january-2017.aspx

/rulings.cbp.gov/ ear_data.html Lexis Advance® - Sig... Customs Bulletin and ... (IPR) search - cpb.gov http://tess2.uspto.gov



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You are here: World Customs Organization • Topics • Instruments and Tools • HS Nomenclature 2017 Edition • Amendments effective from 1 January 2017

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HS Nomenclature older edition
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Classification Decisions
Harmonized System Database Online
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Amendments effective from 1 January 2017

- Amendments to the HS Nomenclature effective from 1 January 2017
- Complementary amendments to the Harmonized System
- Corrigendum amendments to the HS Nomenclature 2017 Edition

Amendments to the HS Nomenclature effective from 1 January 2017

The WCO has published the **accepted amendments to the Harmonized System (HS) Nomenclature** that will enter into force on 1 January 2017. It includes 233 sets of amendments, divided as follows : agricultural sector 85; chemical sector 45; wood sector 13; textile sector 15; base metal sector 6; machinery sector 25; transport sector 18; other sectors 28.

Environmental and social issues of global concern are the major feature of the HS 2017 amendments. The majority of these changes to the HS have been broached by the FAO (Food and Agriculture Organization of the United Nations).

Due to the importance of the HS in the collection of trade statistics, the HS 2017 amendments for fish and fishery products are to further enhance the coverage of species and product forms which need to be monitored for food security purposes and for better management of resources. The split by more detailed product forms for crustaceans, molluscs and other invertebrates is motivated by the importance of trade and consumption of these species in the various product forms. The subdivisions enable a better correspondence between the HS and the United Nations Central Product Classification (CPC). The amendment for cuttlefishes and squids is to extend the coverage of the present codes, in order to have all those species grouped. At present, a significant share of cuttlefish and squid trade is recorded under residual codes for molluscs.

The amendment for forestry products aims at one main area : enhancement of the coverage of wood species in order to get a better picture of trade patterns, including endangered species. In particular

Harmonized System Explanatory Notes

The Explanatory Notes constitute the official interpretation of the Harmonized Tariff Schedule (HTS) at the international level.

Although not dispositive or legally binding on Customs or Courts, the EN's provide a commentary on the scope of each heading of the HTS and are generally indicative of the proper interpretation of the headings.

The screenshot displays the World Customs Organization (WCO) website. The browser address bar shows the URL www.wcoomd.org/en/topics/nomenclature.aspx. The website header includes the WCO logo, the text "World Customs Organization / Organisation Mondiale des Douanes", a language dropdown menu set to "English", and a search bar. A navigation menu contains links for "ABOUT US", "MEDIA", "ONLINE SERVICES", "TOPICS", and "EVENTS", with "TOPICS" currently selected. Below the navigation menu is a banner image of books with the text "NOMENCLATURE AND CLASSIFICATION OF GOODS". A breadcrumb trail indicates the user's location: "You are here: World Customs Organization > Topics >". On the left side, a sidebar menu lists various topics, with "NOMENCLATURE AND CLASSIFICATION OF GOODS" selected and expanded to show sub-items: "Overview", "News", "Activities and Programmes", "Instruments and Tools", and "Resources". The main content area is titled "Nomenclature and Classification of Goods" and features a "More information" button. Below this, a "NEWS" section is displayed, showing a list of recent news items with dates and titles. The news items are grouped by month: JUNE 2015 and MAY 2015. The JUNE 2015 items include "Nomenclature | 23 June 2015: Consequential amendments following the Harmonized System 2017 amendments", "Nomenclature - Valuation | 12 June 2015: Pioneering WCO Revenue Package workshop takes place in Shanghai, China", and "Nomenclature | 08 June 2015: Clarification on the classification of smart watches, drones and various other products in the Harmonized System Nomenclature". The MAY 2015 items include "Nomenclature - Valuation | 12 May 2015: WCO National Workshop on the HS Tariff Classification in the Former Yugoslav Republic of Macedonia" and "Nomenclature | 06 May 2015: WCO publishes the Correlation Tables between the 2012 version and the 2017 version of the Harmonized System".

The Harmonized Tariff Schedules



- By law (19 U.S.C. 1202) goods are classified according to the Harmonized Tariff Schedules of the United States (HTSUS)
- The HTSUS is published annually by the International Trade Commission (ITC), with periodic updates

www.usitc.gov

19 U.S.C. 1201

http://rulings.cbp.gov/ ear_data.html Lexis Advance® - Sign... Customs Bulletin and ... (IPR) search - cpb.gov http://tess2.uspto.gov/ WebVoyage Factory Five Roads

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Research Tools

- Tariff Search Tool
- HTS (Harmonized Tariff Schedule)
- DataWeb (U.S. Imports/Exports Data)
- 337Info
- Petitions & Complaints

Independent Reporting

IMPORTANT INFORMATION ABOUT THE RECENT CYBERSECURITY INCIDENT

Information for Current & Former USITC Employees Regarding the Recent OPM Security Breach

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News Releases and New Documents

- Commission Vote -- Cold-Rolled Steel Flat Products from 8 Countries [9/10/2015]
- Commission Vote: Adequacy Determination -- Potassium Phosphate Salts from China [9/4/2015]
- Commission Vote: Adequacy Determination -- Certain Steel Grating from China [9/4/2015]
- Commission Vote: Adequacy Determination -- Tissue Paper Products from China [9/4/2015]
- Commission Vote -- Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from 3 Countries [9/3/2015]

Selected Economic/Industry Reports

- Rice: Global Competitiveness of the U.S. Industry
- India Trade Barriers
- Digital Trade
- Trade Barriers in EU Affecting U.S. SMEs
- Remanufactured Goods
- AGOA: Trade & Investment

+ View More

Tariff Assistance

Search the current Harmonized Tariff Schedule...

Search hts.usitc.gov Go

(See Disclaimer)

View...

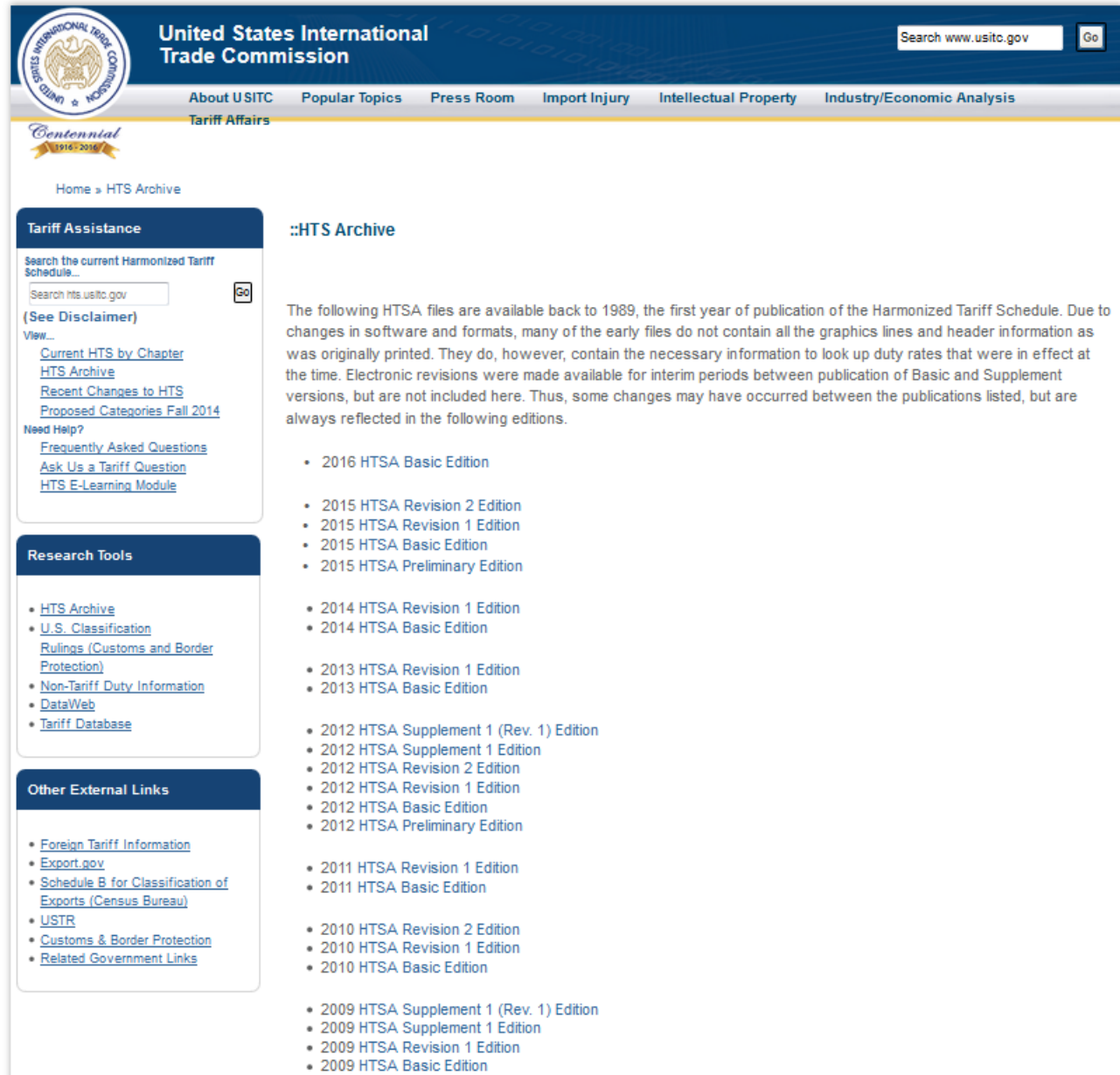
- Current HTS by Chapter
- Recent Changes to HTS
- Proposed Categories Fall 2014

Need Help?

- Frequently Asked Questions
- Ask Us a Tariff Question
- HTS E-Learning Module

HTS Archive Pages

<https://www.usitc.gov/ta/ta/hts/archive/index.htm>

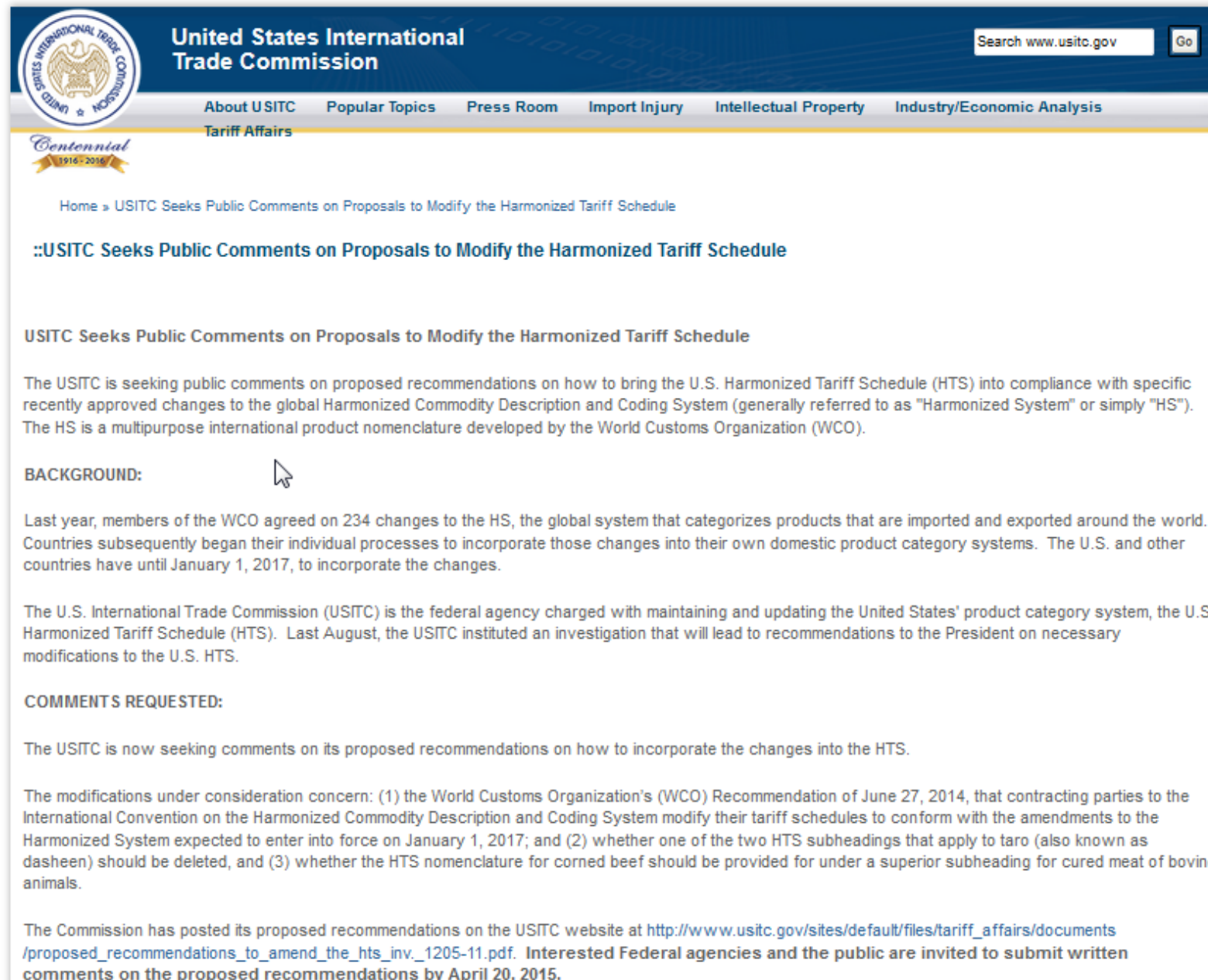


The screenshot displays the USITC website's HTS Archive page. The header includes the USITC logo, the text "United States International Trade Commission", a search bar with "www.usito.gov" and a "Go" button, and a navigation menu with links: "About USITC", "Popular Topics", "Press Room", "Import Injury", "Intellectual Property", and "Industry/Economic Analysis". Below the header is a "Tariff Affairs" section with a "Centennial 1914-2014" banner. The main content area is titled "Home » HTS Archive" and features a "Tariff Assistance" sidebar on the left. This sidebar contains a search box for the "current Harmonized Tariff Schedule", a "Go" button, a "(See Disclaimer)" link, a "View..." link, and several "Need Help?" links: "Current HTS by Chapter", "HTS Archive", "Recent Changes to HTS", "Proposed Categories Fall 2014", "Frequently Asked Questions", "Ask Us a Tariff Question", and "HTS E-Learning Module". The main content area is titled "HTS Archive" and contains a paragraph explaining that HTSA files are available back to 1989, with some early files missing graphics and header information. It then lists the following editions:

- 2016 HTSA Basic Edition
- 2015 HTSA Revision 2 Edition
- 2015 HTSA Revision 1 Edition
- 2015 HTSA Basic Edition
- 2015 HTSA Preliminary Edition
- 2014 HTSA Revision 1 Edition
- 2014 HTSA Basic Edition
- 2013 HTSA Revision 1 Edition
- 2013 HTSA Basic Edition
- 2012 HTSA Supplement 1 (Rev. 1) Edition
- 2012 HTSA Supplement 1 Edition
- 2012 HTSA Revision 2 Edition
- 2012 HTSA Revision 1 Edition
- 2012 HTSA Basic Edition
- 2012 HTSA Preliminary Edition
- 2011 HTSA Revision 1 Edition
- 2011 HTSA Basic Edition
- 2010 HTSA Revision 2 Edition
- 2010 HTSA Revision 1 Edition
- 2010 HTSA Basic Edition
- 2009 HTSA Supplement 1 (Rev. 1) Edition
- 2009 HTSA Supplement 1 Edition
- 2009 HTSA Revision 1 Edition
- 2009 HTSA Basic Edition

The sidebar also includes a "Research Tools" section with links to "HTS Archive", "U.S. Classification", "Rulings (Customs and Border Protection)", "Non-Tariff Duty Information", "DataWeb", and "Tariff Database". At the bottom is an "Other External Links" section with links to "Foreign Tariff Information", "Export.gov", "Schedule B for Classification of Exports (Census Bureau)", "USTR", "Customs & Border Protection", and "Related Government Links".

2017 Modifications to the HTSUS



The screenshot shows the USITC website with a blue header. The header includes the USITC seal, the text 'United States International Trade Commission', a search bar with 'www.usitc.gov', and a 'Go' button. Below the header is a navigation menu with links: 'About USITC', 'Popular Topics', 'Press Room', 'Import Injury', 'Intellectual Property', and 'Industry/Economic Analysis'. A 'Tariff Affairs' link is also present. A 'Centennial 1916-2016' banner is visible. The main content area has a breadcrumb trail: 'Home » USITC Seeks Public Comments on Proposals to Modify the Harmonized Tariff Schedule'. The title of the page is '::USITC Seeks Public Comments on Proposals to Modify the Harmonized Tariff Schedule'. The sub-header is 'USITC Seeks Public Comments on Proposals to Modify the Harmonized Tariff Schedule'. The text states: 'The USITC is seeking public comments on proposed recommendations on how to bring the U.S. Harmonized Tariff Schedule (HTS) into compliance with specific recently approved changes to the global Harmonized Commodity Description and Coding System (generally referred to as "Harmonized System" or simply "HS"). The HS is a multipurpose international product nomenclature developed by the World Customs Organization (WCO).' A 'BACKGROUND:' section follows, with a mouse cursor pointing to it. The text continues: 'Last year, members of the WCO agreed on 234 changes to the HS, the global system that categorizes products that are imported and exported around the world. Countries subsequently began their individual processes to incorporate those changes into their own domestic product category systems. The U.S. and other countries have until January 1, 2017, to incorporate the changes.' Another paragraph states: 'The U.S. International Trade Commission (USITC) is the federal agency charged with maintaining and updating the United States' product category system, the U.S. Harmonized Tariff Schedule (HTS). Last August, the USITC instituted an investigation that will lead to recommendations to the President on necessary modifications to the U.S. HTS.' A 'COMMENTS REQUESTED:' section follows. The text states: 'The USITC is now seeking comments on its proposed recommendations on how to incorporate the changes into the HTS.' Another paragraph states: 'The modifications under consideration concern: (1) the World Customs Organization's (WCO) Recommendation of June 27, 2014, that contracting parties to the International Convention on the Harmonized Commodity Description and Coding System modify their tariff schedules to conform with the amendments to the Harmonized System expected to enter into force on January 1, 2017; and (2) whether one of the two HTS subheadings that apply to taro (also known as dasheen) should be deleted, and (3) whether the HTS nomenclature for corned beef should be provided for under a superior subheading for cured meat of bovine animals.' The final paragraph states: 'The Commission has posted its proposed recommendations on the USITC website at http://www.usitc.gov/sites/default/files/tariff_affairs/documents/proposed_recommendations_to_amend_the_hts_inv._1205-11.pdf. Interested Federal agencies and the public are invited to submit written comments on the proposed recommendations by April 20, 2015.'



Snapshot of 2017 HTS Changes

- HS by the Numbers . . .
 - 33 different amendments
 - 30 different HS Chapters affected
 - 95 different headings affected
 - 339 subheadings affected
 - 266 subheadings added
 - 66 subheadings changed
 - 77 subheading deleted
 - 2937 different 10-digit HTSUS provisions impacted
- 25 Changes to Chapter 84
- 12 Changes to Chapter 85
- 4 (minor) changes to Chapter 90

2017 HTS Changes



**United States International Trade Commission**

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1916 - 2016

Home » Modifications to the Harmonized Tariff Schedule

Contact Us & FAQs

- Director:
James R. Holbein
202.205.1873
- For Help with specific products call:
202.205.2592
- [HTS Help Email](#)
- [Frequently Asked Questions](#)

::Modifications to the Harmonized Tariff Schedule

Modifications Summary	Effective Dates	Proclamation Documents
Presidential Proclamation 9549, December 1, 2016, to Modify the Harmonized Tariff Schedule of the United States under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988 and for Other Purposes	December 1, 2016	•  Publication 4653

2017 HTS Changes

https://www.usitc.gov/documents/publication_4653_updated.pdf



United States
International Trade Commission

Modifications to the Harmonized Tariff Schedule of the United States under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988 and for Other Purposes

December 2016
Publication Number: 4653

The Honorable Michael Froman
United States Trade Representative
600 Seventeenth Street
NW Washington, DC 20508

Dear Ambassador Froman:

Thank you for your letter of November 30, 2016, requesting that the Commission publish the text of the modifications to the Harmonized Tariff schedule of the United States that the President will proclaim in connection with the recommendations made by the World Customs Organization and codified in Commission Investigation 1205-11.

We will publish the text of these annexes as USITC Publication No. 4536 and will place the publication on the Commission's internet site as soon as possible. The Commission will also make the document available to U.S. Government depository libraries, as you have requested.

If we may be of further assistance in this matter, please do not hesitate to contact us.


Sincerely,

A handwritten signature in cursive script, appearing to read "Robert D. Williamson".

Looking at the HTS: by Chapter

www.usitc.gov/tata/hts/bychapter/index.htm

http://rulings.cbp.gov/ ear_data.html Lexis Advance® - Sign... Customs Bulletin and ... (IPR) search - cbp.gov http://tess2.uspto.gov/ WebVoyage Factory Five Roadsters

 **United States International Trade Commission**

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Tariff Assistance

Search the current Harmonized Tariff Schedule...

(See Disclaimer)

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Other External Links

- [Foreign Tariff Information](#)
- [Export.gov](#)
- [Schedule B for Classification of Exports \(Census Bureau\)](#)
- [USTR](#)







::2015 HTSA Revision 1 Edition

This edition of the HTS takes effect July 1, 2015. This page contains the chapter-by-chapter listing of the Harmonized Tariff Schedule and general notes. The links below correspond to the various sections in the Table of Contents for the Harmonized Tariff Schedule. Clicking on a link will load the corresponding Adobe .pdf file (Note: Section notes, if any, are attached to the first chapter of each section. "Page down" to view chapter after selecting.)

-  [Cover](#)
-  [Change Record \(The record of legal and statistical changes in this edition of the Harmonized Tariff Schedule\)](#)
-  [Preface](#)
-  [General Notes; General Rules of Interpretation; General Statistical Notes](#)
-  [Notice to Exporters](#)


Section I: Live Animals; Animal Products

Section I

-  [Section Notes](#)
- Chapter 1:**  [Live animals](#)
- Chapter 2:**  [Meat and edible meat offal](#)
- Chapter 3:**  [Fish and crustaceans, molluscs and other aquatic invertebrates](#)
- Chapter 4:**  [Products of animal origin, not elsewhere specified or included](#)
- Chapter 5:**
 -  [Dairy produce; birds eggs; natural honey; edible products of animal origin, not elsewhere specified or included](#)

Section II: Vegetable Products

Section II

-  [Section Notes](#)

Understanding and applying the General Rules of Interpretation (GRIs)



GENERAL RULES OF INTERPRETATION

Classification of goods in the tariff schedule shall be governed by the following principles:

1. The table of contents, alphabetical index, and titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions:
2.
 - (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.
 - (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

Understanding and applying the GRIs



3. When, by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
 - (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
 - (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
 - (c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Understanding and applying the GRIs



4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.
5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:
 - (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and entered with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;
 - (b) Subject to the provisions of rule 5(a) above, packing materials and packing containers entered with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.
6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, mutatis mutandis, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

Principles of Tariff Classification: GRI 1



- GRI 1: Classification is determined according to:
 - the language or terms of the relevant headings and
 - any relative section or chapter notes

- Terms used in headings that not defined in the HTSUS (section or chapter notes) are defined according to the common and commercial meaning of the term
 - derived from dictionaries and dictionaries of scientific and technical terms, as well as other authoritative lexicons.



Principles of Tariff Classification

- The HTS covers all imported merchandise whether or not the merchandise is specifically provided for or not.
- Merchandise may be specifically provided for according to its:
 - Material or composition
 - Use, application, or function
 - Common (eo nomine), scientific, or technical name
- Types of Headings
 - Eo nomine headings (A heading that “names” a good)
 - Use headings (Principal and actual use headings)
 - Headings of general designation
 - Basket provisions (“other, other, other”)

Importance of Section and Chapter Notes



- Section and Chapter Notes define what is included within a particular section or chapter and must always be read and considered

SECTION XVI	
MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES	
Notes	XVI-1
1. This section does not cover:	
(a) Transmission, conveyor or elevator belts or belting, of plastics of chapter 39, or of vulcanized rubber (heading 4010), or other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses, of vulcanized rubber other than hard rubber (heading 4016);	
(b) Articles of leather or of composition leather (heading 4205) or of furskin (heading 4303), of a kind used in machinery or mechanical appliances or for other technical uses;	
(c) Bobbins, spools, cops, cones, cores, reels or similar supports, of any material (for example, chapter 39, 40, 44 or 48 or section XV);	
(d) Perforated cards for Jacquard or similar machines (for example, chapter 39 or 48 or section XV);	
(e) Transmission or conveyor belts or belting of textile material (heading 5910) or other articles of textile material for technical uses (heading 5911);	
(f) Precious or semiprecious stones (natural, synthetic or reconstructed) of headings 7102 to 7104, or articles wholly of such stones of heading 7116, except unmounted worked sapphires and diamonds for styli (heading 8522);	
(g) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39);	
(h) Drill pipe (heading 7304);	
(i) Endless belts of metal wire or strip (section XV);	
(k) Articles of chapter 82 or 83;	
(l) Articles of section XVII;	
(m) Articles of chapter 90;	

Importance of Section and Chapter Notes



- Composite Machine Rule (Principal Function)
- Functional unit Rule

Harmonized Tariff Schedule of the United States (2016) Supplement-1
Annotated for Statistical Reporting Purposes

XVI-2

Notes (con.)

(c) All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

3. Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.

4. Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Principles of Tariff Classification: GRI 2(a)



➤ Treatment of unfinished, incomplete, or unassembled goods:

GRI 2(a)

- Any reference in a heading to an article includes the incomplete or unfinished article, provided, as entered, the incomplete or unfinished article has the essential character of the complete or finished article.
- The second part of Rule 2 (a) provides that a heading also includes articles complete or finished but which are imported in an unassembled or disassembled form.

Principles of Tariff Classification: GRI 2(a)



- Treatment of unfinished or incomplete articles
- The term "essential character" under the HTSUS has been defined to mean:
 - “. . . the attribute which strongly marks or serves to distinguish what an article is; that which is indispensable to the structure, core or condition of the article.” HQ 956538, dated November 29, 1994
 - A complete motor vehicle with body and interior intact, minus only the engine and transmission, leaves the form and shape and every visually apparent characteristic of a motor vehicle intact. HQ 967894, dated October 26, 2005

GRI 2(a): Unassembled or Disassembled Articles



- Articles that are “**unassembled or disassembled**” means
 - the components must assembled either by means of fixing devices (screws, nuts, bolts, etc.) or by riveting or welding, for example, provided only assembly operations are involved.
 - No account is to be taken in that regard of the complexity of the assembly method.
 - Components shall not be subjected to any further working operation for completion into the finished state



HQ 966848, April 26, 2005

- CBP has consistently held that, in general, items imported in bulk for later assembly do not qualify under GRI 2(a) as an incomplete or unfinished good for classification purposes.
- There must be evidence that the articles will definitely be assembled after importation, and that the articles are not being imported simply for inventory purposes.
- There must be evidence that the articles are presented for reasons such as requirements or convenience of packing, handling or transport. See HQ 088891 , (June 21, 1991), HQ 954420 (August 12, 1993), HQ 953860 (June 23, 1993).
- For unassembled goods to be considered a set, all the articles for the assembly must be entered in the same importation; however, they need not be in the same container, box, crate, kit, etc. See HQ 958215 (July 9, 1996) and HQ 953313 (May 10, 1993).



HQ 957161 , April 24, 1995

- "High Speed Lady Sanitary Napkin Machine" (sanitary napkin machine) which at the time of entry is unassembled.
- The machine manufactures a sanitary napkin and consists of a number of stations, including winder, cutting, pulp processing, and paper adhesive application units.
- Is the machine classified as "other machinery for making up paper, paper or paperboard under subheading 8441.80, HTSUS," . . . or as "other machines and mechanical appliances having individual functions, not specified or included elsewhere in this chapter" under subheading 8479.89.95, HTSUS?
- Applied GRI 2(a) and Note 3, Section XVI, HTSUS (composite machine rule)
- CBP « principal function » of machine However, CBP was unable to determine the function which is considered the principal function of the machine.

GRI 2(b): Classification of Combinations of Materials or Substances



- Imports consisting of combinations of materials or substances:

GRI 2(b)

- Reference in a heading to a material or substance will include mixtures or combinations of that material or substance with other materials or substances.
- Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance.
- The classification of goods consisting of more than one material or substance shall be according to the principles of GRI 3.

GRI 3



- GRI 3 provides for three methods of classifying goods that, *prima facie*, fall under two or more headings, either because of Rule 2(b) or for any other reason.
- These methods operate in the order in which they are set out in the Rule.
- The order of priority is
 - (a) specific description;
 - (b) essential character;
 - (c) heading which occurs last in numerical order



Principles of Tariff Classification: GRI 3(a)

- The heading which provides the most specific description shall be preferred to the heading that provides a more general description.
- Rule of “Relative Specificity”:
 - The most specific provision is the one with the requirements that are:
 - most difficult to satisfy and/ or
 - describe the article with the greatest degree of accuracy and certainty.
 - Orlando Food Corp. v. United States, 140 F.3d 1437, 1440 (Fed. Cir. 1998).
 - In Sharp Microelectronics Technology, Inc v. United States, 122 F.3d 1446 (Fed. Cir. 1997), the court concluded that Heading 9013, HTSUS, is more specific than a heading providing for parts



HQ H270254, June 9, 2016

- Classification of comfort flooring made up of interlocking foam tiles
- Whether the interlocking plastic foam tiles that form mats are classified in
 - heading 3918, HTSUS, as “[f]loor coverings ... of plastics” or
 - heading 3924, HTSUS, as “other household articles ... of plastics.”
- The foam mats are within the scope heading 3918, HTSUS, however, they also fall within the scope of heading 3924, HTSUS, because they are principally used in a household.
- GRI 3(a) requires that we proceed to a relative specificity analysis to determine the heading under which the plastic mats should be classified.
- heading 3918, HTSUS, prevails over heading 3924, HTSUS. “Floor coverings of plastics ... in rolls or in the form of tiles” is a much more specific description than “other household articles ... of plastics.”
- the exemplars for heading 3924 (ash trays, hot water bottles, matchbox holders, dustbins, buckets, watering cans, food storage containers, curtains, drapes, table covers and fitted furniture dust-covers) represent a broad array of very different “household” articles.
- Floor coverings may be included, but they are described more specifically by the *eo nomine* provision in heading 3918, HTSUS, which captures them by name, as well as their particular form and actual use.
- The fact that the foam tiles form mats that are principally used in a household setting puts them into a very broad class or kind or articles in heading 3924, HTSUS, which obviously lacks the accuracy and certainty conferred by “floor coverings ... of plastics, in rolls or in the form of tiles.”

Limitations on GRI 3(a)

- When the headings each refer to:
 - only part of the materials or substances contained in mixture
 - or a composite article
 - or to only part of the items in a set put up for retail sale
- the headings are regarded as equally specific, even if one of heading gives a more complete or precise description of the goods.
- Classification is resolved by applying GRI 3(b) or (c).

GRI 3(b): Composite Goods, Retail Sets & Essential Character



- Goods that consist of:
 - mixtures
 - composite goods consisting of different materials or made up of different components, and
 - goods put up in sets for retail sale
 - are classified as if they consist of the material or component which gives them their **essential character**.



Principles of Tariff Classification

➤ What is “Essential character”?

- Essential character varies for different kinds of goods.
- It may be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of each material in relation to the use of the goods.
- Recent court decisions on the essential character for GRI 3(b) purposes have looked primarily to the role of the constituent material in relation to the use of the goods.
- See, Better Home Plastics Corp. v. U.S., 916 F. Supp. 1265 (CIT 1996), aff'd 119 F. 3d 969 (Fed. Cir. 1997); Mita Copystar America, Inc. v. U.S., 966 F.Supp. 1245 (CIT 1997).



What is a Composite Article?

- For purposes of Rule 3(b) composite goods are made up of different components that are:
 - Attached to each other to form a practically inseparable whole or
 - Consist of separate components, provided:
 - the components are adapted for use with one another,
 - are mutually complementary and,
 - together they form a whole which would not normally be offered for sale in separate parts.

What is “Essential character”?

The Tabletop Water Fountain Case

- No specific tariff provision for fountains
- Comprised of: (1) a plastic water reservoir or base; (2) an electric submersible pump; (3) plastic tubing; (4) various objects, such as simulated rocks, natural polished stones, through which and/or over which water flows
- The parties disagreed as to which component imparts the essential character of the Serenity Ponds.
- Court found the Serenity Ponds' essential character was imparted by the pump, as the pump causes the water to flow over the simulated landscape, which achieves the intended purpose of stimulating the visual and auditory senses.
- Conair Corp. v. United States, Slip Op 2005-95, aug 12, 2005



Tariff Classification: The Retail Set Rule



- For the purposes of this Rule, the term “goods put up in sets for retail sale” means goods that:
1. Consist of at least two different articles that are, prima facie, classifiable in different headings;
 2. Consist of products or articles put up together to meet a particular need or carry out a specific activity; and
 3. Are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).



Goods Put up for Retail Sale: #1

- "Portable Mosquito Net Survivor Kit". Consists of:
 - mosquito net, top and pants contained in a drawstring woven textile bag.
 - The articles are used to protect a person from bothersome insects
- Above-described merchandise will not necessarily be used in conjunction with each other to carry out a specific activity and can be used independently of each other.
- For classification purposes the "Portable Mosquito Net Survivor Kit" must be broken out for each item and classified separately.

Principles of Tariff Classification: GRI 3(c)



GRI 3(c)

If an article cannot be classified by application of GRI 3(a) or GRI 3(b), it will be classified under the heading which occurs last in numerical order among those that merit equal consideration.



GRI 5: Cases & Containers

- Cases and containers are classified with the articles when:
 - specially shaped or fitted to contain a specific article or set of articles,
 - Suitable for long-term use and entered with the articles for which they are intended,
 - when of a kind normally sold therewith.
- Packing materials and packing containers entered with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods.
- This provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use



GRI 6: Classification Under Subheadings

- The classification of goods within the subheadings of a heading will be determined according to the terms of those subheadings and any related subheading notes
- Only subheadings at the same level are comparable.
- For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.
- Must first resolve the classification of the article at the heading level.

Classification of “Kits” & Other Shipments Involving Multiple Articles



- Basic rule: all articles must be classified separately under individual headings for each good
- Exceptions:
 - “goods put up in sets for retail sale”
 1. Consist of at least two different articles that are classifiable in different headings;
 2. Consist of articles put up together to meet a particular need or carry out a specific activity; and
 3. Are put up in a manner suitable for sale directly to users without repacking (e.g., in boxes or cases or on boards).
 - Goods meeting the composite article rule of GRI 3(b)
 - the components are adapted for use with one another, are mutually complementary and,
 - not normally be offered for sale in separate parts.
 - Unassembled articles that have the essential character of the assembled article



Interpreting Tariff Terms

➤ Common Meaning:

In this instance, there is no clear definition of "vitamin" within Chapter 29 or its legislative history. ...

We have held that, [w]hen, as here, a tariff term is not defined in either the HTSUS or its legislative history, the term's correct meaning is its common or dictionary meaning in the absence of evidence to the contrary. . . .

We have explained that, to determine the common meaning of a tariff term, a court may rely upon its own understanding of terms used, and may consult standard lexicographic and scientific authorities.

Sigma-Tau HealthScience, Inc. v. United States, 838 F.3d 1272, 1278-1279 * (Fed. Cir. 2016)

Interpreting Tariff Terms



➤ Types of Headings

- *Eo nomine* headings (A heading that “names” a good)
 - An *eo nomine* provision describes a "commodity by a specific name, usually one well known to commerce."
 - Use headings (Principal and actual use headings)
 - Headings of general designation
- Use provisions are generally considered more specific than *eo nomine* provisions ... and the most specific heading controls under GRI 3(a).
[Orlando Food Corp., 140 F.3d at 1441](#)

Interpreting Tariff Terms: Eo Nomine



- an eo nomine designation will ordinarily include all forms of the named article. Len-Ron, 118 F. Supp. 2d at 1281
- HTSUS terms are to be construed according to their common and commercial meanings, which are presumed to be the same." Carl Zeiss, Inc. v. United States, 195 F.3d 1375, 1379 (Fed. Cir.
- Common and commercial meaning are determined by consulting dictionaries, lexicons, scientific authorities and other reliable sources.
- "Use cannot be ignored in determining whether an article falls within an eo nomine tariff provision." CamelBak Prods., LLC v. United States, 649 F.3d 1361 (Fed. Cir. 2011)



Interpreting Tariff Terms

- Absent specific language or a contrary legislative intent an eo nomine provision covers all forms of the article. Hasbro Indus., Inc. v. United States, 7 Fed. Cir. (T) 110, 112, 879 F.2d 838, 840 (1989).
- Eo nomine provisions include merchandise not known to commerce at the time of enactment provided the article possesses an essential resemblance to the one named in the tariff.



Principal vs. Actual Use Provisions

➤ Actual Use Provisions

- “Actual use” provisions are those where use must be proven with a certification process.
- Subheading 9817.00.5000, HTSUS, provides for Machinery, equipment and implements to be used for agricultural or horticultural purposes.
- The language "to be used" renders this an "actual use" provision, where actual use of the imported goods must be proven to receive the duty benefit.
- Generally limited to provisions related to goods for agricultural or horticultural use



Use Provisions

- A "use" provision is "a provision describing articles by the manner in which they are used as opposed to by name,"
- while an eo nomine provision is one "in which an item is identified by name."
- There are two types of "use" provisions –
 - "actual use" and "principal (formerly known as "chief") use.
 - "An "actual use" provision is satisfied only if "such use is intended at the time of importation, the goods are so used and proof thereof is furnished within 3 years after the date the, goods are entered."
 - In contrast, a "principal use" provision functions essentially "as a controlling legal label, in the sense, that even if a particular import is proven to be actually used inconsistently with its principal use, the import is nevertheless classified according to its principal use."



Principal Use

- A tariff classification controlled by use (other than actual use) is determined according to the use in the United States . . . of the class or kind to which the imported goods belong . . .
- not the use of the specific import Group Italglass v. United States, 17 C.I.T. 1177 (1993)



Classifications Based On Use

- Many tariff descriptions describe products based on their “use”
- Examples:
 - Heading 3923 -- Articles for the conveyance or packing of goods, of plastics;
 - Heading 8486 -- Machines and apparatus of a kind used solely or principally for the manufacture of semiconductor wafers, semiconductor devices, electronic integrated circuits or flat panel displays;
 - Heading 8544 -- Other electric conductors, for a voltage not exceeding 1,000 V: Other; Of a kind used for telecommunications



Classifications Based On Use

- In most cases, principal use is implied from the language of the HTSUS. A designation by use may be established although the word 'use' or 'used' does not appear in the language of the statute.
- Stewart-Warner Corp. v. United States, 748 F.2d 663, 667 (Fed. Cir. 1984) stating:

“Dog food is a tariff item which, like household utensils, tableware, and other classifications too numerous to detail, is a use classification. It means food that is used to feed dogs.”
- Principal use has been defined as a use "which exceeds any other single use". Lenox Collections v. United States, 20 CIT 194



Classifications Based On Use

➤ Additional U.S. Rule 1:

In the absence of special language or context --

- A tariff classification controlled by use (other than actual use) is determined in accordance with the use in the United States of goods of that
 - class or kind to which the imported goods belongs, and
 - the controlling use is the principal use;



Classification Based On Use

- The principal use of the class or kind of goods to which the import belongs, and not the principal use of the specific import, which is controlling.
- **Three Step Process:**
 - Define the attributes of each class or kind of goods which are involved (tariff headings)
 - Determine the attributes of the subject merchandise and which class it falls within.
 - Compare the two. Classify the article under the heading for the goods which it shares the most attributes

Determining Class or Kind: The Carborundum Factors



- Factors for determining “class or kind”
 - What are the general physical characteristics of the articles?
 - What are the expectation of the ultimate purchaser?
 - How are the article distributed (Channels of trade)?
 - What is the environment of sale (accompanying accessories, manner of advertisement and display) ?

- Compare attributes of imported article to that of each class
 - Use in the same manner as merchandise which defines the class
 - Economic practicality of so using the import, and recognition in the trade of this use.
(United States v. Carborundum Company, 63 CCPA 98)

Summary Of GRIs



- Determine all headings that might describe all or a part of the article you wish to classify
 - Review relevant Section and Chapter Notes for each provision
 - Determine whether there is language that includes or excludes the application of a specific heading
 - If language of heading or Section and chapter notes do not resolve the issue, apply GRI's 2 and 3.
 - Select the Heading that is most specific
 - If headings are equally specific, article is classified according to material or component which gives the article its “essential character”
 - If the “essential character” of the article can not be determined, then the article shall be classified under the heading which occurs last in numerical order among those which equally merit consideration

Classification of Parts & Accessories



- classifications for parts & accessories are “use” provisions, but remember --
- AUSRI 1(c) –
 - A provision for parts of an article covers products solely or principally used as a part of such articles but a provision for "parts" or "parts and accessories" **shall not prevail over a specific provision for such part or accessory;**

Classification of Parts & Accessories



➤ What is a “Part”?

- The mere fact that two articles are designed and constructed to be used together does not make either a part of the other. Willoughby Camera Stores, Inc. v. United States, 21 CCPA 322, T.D. 46851 (1933)

➤ Two different tests:

- “A part is an item that is "an integral, constituent, or component part, without which the article to which it is to be joined, could not function as such article. Willoughby Camera
- “An imported item dedicated solely for use with another article is a 'part' of that article within the meaning of the HTSUS." United States v. Pompeo, 43 C.C.P.A. 9 (1955)

Classification of Parts & Accessories



- The Federal Circuit in *Bauerhin Tech. Ltd. v. United States*, 110 F.3d 774, (1997) instructed that although these cases provided different standards, they were not inconsistent and "must be read together."
- The term "parts" does not include objects that are distinct and separate commercial entities. [Bauerhin, 110 F.3d at 779](#); [Willoughby Camera, 21 C.C.P.A. at 325](#)
- Empty cassette housings are properly classified as "parts and accessories of" videocassette recorders (VCRs). [Technicolor Videocassette v. United States, 90 F.3d 484](#)
- Computer manufacturers' coolant distribution unit (CDU) was properly classified as equipment "for the treatment of materials by a process involving a change of temperature" and not a part or accessory of an ADP Machine. [Fujitsu Am., Inc. v. United States, 342 F. Supp. 2d 1326](#)

Classification of Parts & Accessories



- An "**accessory**" must bear a direct relationship to the primary article that it accessorizes. Rollerblade, Inc. v. United States, 282 F.3d 1349
 - An accessory is commonly defined as "a thing of secondary or subordinate importance. . . . An object or device that is not essential in itself but adds to the beauty, convenience or effectiveness of something else." *Webster's Third New International Dictionary* 11 (1981).
 - Another source defines accessory as "equipment, usually demountable and replaceable," that is added "for convenience, comfort, safety or completeness." *Webster's New Universal Unabridged Dictionary* 11 (2d ed. 1983).

Section XVI (Ch 84 & 85) Note 2: Treatment of Parts



- Rule 2(a) if a “part” of an article of chapters 84 and 85 have a specific provision, the article is classified under that provision and not as a part or accessory

2. Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:
 - (a) Parts which are goods included in any of the headings of chapters 84 and 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;
 - (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;
 - (c) All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8485 or 8548.

Section XVI, Note 2: Treatment of Parts



- In general, parts which are suitable for use solely or principally with a particular machine are classified in the same heading as the machine or apparatus with which they are used.
- The above rule does not apply to parts which in themselves constitute an article covered by a heading of Section XVI.
- These are to be classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to :
 - Pumps and compressors (headings 84.13 and 84.14).
 - Lifting and handling machinery (heading 84.25, 84.26 or 84.28).
 - Taps, cocks, valves, etc. (heading 84.81).

Section XVI, Note 2: Treatment of Parts



- Ball or roller bearings heading 8482
- Transmission shafts, cranks, bearing housings, plain shaft bearings, gears and gearing (including friction gears and gear-boxes and other speed changers), flywheels, clutches and shaft couplings of heading 8483
- Gaskets and similar joints of heading 8484
- Electric motors of heading 8501
- Electrical transformers and other machines and apparatus of heading 8504.
- Magnets of heading 8505

Ruling Requests



➤ Types of Rulings

- See 19 CFR 177:
 - ✓ 30 day National Commodity Specialist Division
 - ✓ Headquarters Rulings (longer)
 - ✓ HQ appeals from NCSD Decisions
 - ✓ Requests for internal Advice (Current transactions)
 - ✓ Protest and AFR (Application for Further Review)

➤ Do you need a ruling?

- Reasonable care
- Broker or Legal memorandum on classification

Requirements for Electronic Ruling Requests

The procedures under this rulings program apply to requests for binding classification rulings under the Harmonized Tariff Schedule (HTS) and certain marking, origin, NAFTA and applicability of Trade Program rulings.

Under the newly enhanced eRulings program, the importing community may submit an electronic request for a binding ruling by accessing the new [eRulings Template](#). The template permits the online filing of an electronic binding ruling request directly to the National Commodity Specialist Division (NCSD) of Regulations and Rulings.

The eRulings Template is reserved exclusively for the electronic submission of initial binding ruling requests to the NCSD in New York. Any questions or follow-up inquiries concerning electronic binding ruling requests must be made via telephone to Customs and Border Protection, Customs Information Exchange at (646) 733-3068, 3062 or 3071.

Upon transmission of an electronic eRuling request, the requester will receive an email acknowledging their use of the template. If the transmission is received by the NCSD in good order, the requester will receive an email acknowledgement of receipt, complete with a binding ruling control number, within one business day. The official binding ruling response, complete with an electronic signature, will also be returned by email. Ruling requests that require a sample will be excluded from the program.

Generally, the NCSD will issue all such rulings within 30 calendar days of the date of receipt. Some delay may occur if a laboratory report or consultation with another agency is required. Rulings that require referral to Headquarters, R&R, will be issued by mail within 90 days of receipt.

The ruling request must concern prospective shipments. A copy of the ruling or the ruling control number should be provided with the entry documents filed at the time the merchandise is imported. Please note that if for any reason you cannot meet the requirements for filing an electronic ruling request, you can still file for a binding ruling by mail. See [What are Ruling Letters?](#) for additional information.

Attachments must be in one of the following formats: Microsoft Word (.DOC), JPEG format for pictures (.JPG), Plain text (.TXT), Adobe Acrobat (.PDF), Power Point (.ppt), and GIF image format (.gif) No zip or compressed files will be permitted. Failure to adhere to these requirements may result in rejection of the request.



Ruling Requests

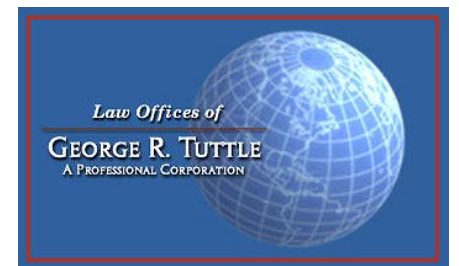
- Ruling requests concern prospective shipments
- What information should be included?
 - A request for a ruling should include a full and complete description of the article and whenever germane to the proper classification of the article,
 - information as to the article's principal use in the United States,
 - common, its commercial, or technical designation (*i.e., name*), and,
 - where the article is composed of two or more materials, the relative quantity (by weight and by volume) and value of each.



Ruling Requests

- Present arguments or information that supports your proposed classification, including definitions or principal use information
- Include relevant sources of information, such as:
 - WCO Explanatory Notes
 - CBP administrative/binding rulings (CBP's CROSS Rulings Database <http://rulings.cbp.gov>)
 - CBP "Informed Compliance Publications"
 - Court Decisions (CBP Bulletin and Decisions)

HTS & Schedule B Classifications



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Economic Indicator Database

October 2016 Trade in Goods and Services

Deficit: \$42.6 Billion
Exports: \$186.4 Billion
Imports: \$229.0 Billion

Next release: January 6,
2017

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Export Training

[Collection of videos](#) to
enhance export training.

Schedule B

The export statistics are initially collected and compiled in terms of approximately 8,000 commodity classifications in *Schedule B: Statistical Classification of Domestic*

Sections

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Year 2016:

Export Classification System (Harmonized System)

The screenshot shows the 'Schedule B Search Engine' page from the United States Census Bureau. The browser's address bar displays 'https://uscensus.prod3ceonline.com'. The page features a search bar with the placeholder text 'DESCRIBE YOUR PRODUCT *' and a blue 'Classify' button. Below the search bar, there is a link to an export training video and information about USA Trade Online. A list of bullet points describes the benefits of using trade data. Contact information for the Census Bureau is provided, including email, phone, and web links. A red box on the right side of the page contains a call to action to visit USA Trade Online. The footer of the page includes a link for tariff information.

United States Census Bureau

Schedule B Search Engine

DESCRIBE YOUR PRODUCT * ✕ 🔍 Classify

Click [here](#), to watch an Export Training Video on how to Classify Your Commodity.

USA Trade Online (<https://usatrade.census.gov>), the official source of U.S. merchandise trade data, offers current and historical U.S. import and export statistics. Use USA Trade Online to:

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Export Classification System (Harmonized System)

- Import codes are used for a variety of tracking and tariff purposes so more detailed break-outs are done for import codes than exports.
- More import codes exist than export codes.
- There are about 8,000 different export HS codes while there are about 18,000 different import HS codes.
- Except as noted, the statistical reporting numbers in the HTS for articles falling in Chapters 1 through 97 may be used in place of those in Schedule B.

GENERAL RULES OF INTERPRETATION

Classification of goods in Schedule B shall be governed by the following principles:

1. The titles of sections and chapters are provided for ease of reference only. Classification shall be determined according to the terms of the headings and relative section or chapter notes and, unless such headings or notes have additional requirements, according to the following provisions.
2. Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to the article complete or finished (or failing to be classified as complete or finished by

However, when two or more headings each refer to parts only of the materials or substances contained in mixed or composite goods or to parts only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

- b. Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3a, shall be classified as if they consisted of the material or component that gives them their essential character, insofar as this criterion is applicable.
- c. When goods cannot be classified by reference to 3a or 3b, they shall be

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Harmonized Tariff Schedule of the United States (2007) (Rev. 2)

Annotated for Statistical Reporting Purposes

NOTICE TO EXPORTERS

Through this notice, this publication may be used in place of the reporting codes of Schedule B for reporting exports on the Shipper's Export Declaration or under the program for electronic reporting of exports.

Except as noted below, the statistical reporting numbers (with the article descriptions and units of quantity) for articles falling in Chapters 1 through 97 may be used in place of those in Schedule B. The special prefix symbols which denote special tariff treatment should not be included.

Exceptions:

The following provisions are applicable for export purposes in lieu of the corresponding provisions in the HTS:

<u>Description</u>	<u>Schedule B Number</u>	<u>Unit of Quantity</u>
Hearts of bovine animals, frozen	0206.29.0010	kg
Kidneys of bovine animals, frozen	0206.29.0020	kg
Brains of bovine animals, frozen	0206.29.0030	kg
Sweetbreads of bovine animals, frozen	0206.29.0040	kg
Lips of bovine animals, frozen	0206.29.0050	kg
Other edible offal of bovine animals, n.e.s.o.i. (except tongues and livers), frozen	0206.29.0090	kg
Tongues of swine, frozen	0206.49.0010	kg
Hearts of swine, frozen	0206.49.0020	kg

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NOTICE TO EXPORTERS

<u>Description</u>	<u>Schedule B Number</u>	<u>Unit of Quantity</u>
Transmission apparatus, except television and transmitters, not for use in civil aircraft	8525.10.8040	X
Transceivers except citizens band (CB) and transceivers operating on frequencies from 49.82 to 49.90 MHz (including walkie talkies), for use in civil aircraft	8525.20.3005	No.
Hand-held transceivers, not for use in civil aircraft	8525.20.3030	No.
Radio transceivers for frequencies not exceeding 30 MHz, not for use in civil aircraft	8525.20.3042	No.
Transmitters, for use in civil aircraft	8525.50.6010	No.
Transmitters capable of transmitting on frequencies not exceeding 30 MHz, not for use in civil aircraft	8525.50.6030	No.
Transmission apparatus, except television and transmitters, for use in civil aircraft	8525.50.8020	X
Transmission apparatus, except television and transmitters, not for use in civil aircraft	8525.50.8040	X
Transceivers except citizens band (CB) and transceivers operating on frequencies from 49.82 to 49.90 MHz (including walkie talkies), for use in civil aircraft	8525.60.1025	No.
Hand-held transceivers, not for use in civil aircraft	8525.60.1035	No.
Radio transceivers, not for use in civil aircraft	8525.60.1055	No.
Radar apparatus, for use in civil aircraft	8526.10.0010	No.
Radar apparatus, not for use in civil aircraft (not including apparatus designed for boat or ship installation)	8526.10.0070	No.

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